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FAXED**JUN 24 1999****PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Applicants: Johnston et al.

Application No.: 09/299,426

Filed: 04/26/99

For: Parasite Derived Resistance

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,286.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

A handwritten signature in black ink, appearing to read "Richard Torczon", written over a horizontal line.

RICHARD TORCZON
Administrative Patent Judge

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Paper No. 61 2

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

STEPHEN A. JOHNSTON and JOHN C. SANFORD,

Junior Party,
(Patent 5,580,716,
Patent 5,840,481, and
Reissue 09/299,426),

FAXED

JUN 24 1999

v.

ROGER N. BEACHY, ROBERT T. FRALEY,
and STEPHEN G. ROGERS,

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Senior Party
(Application 06/917,027).

Patent Interference No. 104,286

NOTICE DECLARING INTERFERENCE
(37 CFR § 1.611)

An interference is redeclared between the above-identified parties. Details of the application, patents, reissue application, and claims designated as corresponding or not corresponding to the count appear in an "Attachment" to this NOTICE REDECLARING INTERFERENCE. The count remains as set forth at pages 2-3 of the ORDER REDECLARING INTERFERENCE (Paper No. 56).

ORDER

1. Incorporation by reference

All orders currently in effect remain in effect except to the extent they are modified in this notice.

2. Time Periods

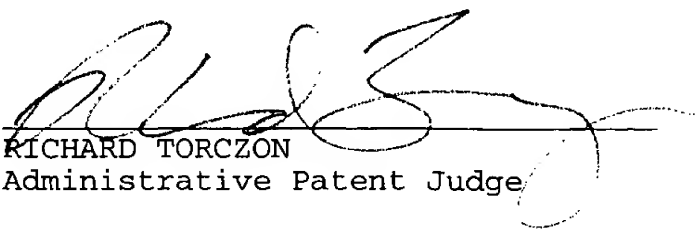
All time periods currently set remain in effect.

3. Filing of papers with the Board

Telephone calls requesting a telephone conference call or information of a procedural nature shall be placed to Interference Administrator Sally Gardner-Lane or, in her absence, any administrator, paralegal or legal technician assigned to the Trial Section of the Interference Division of the Board. A party seeking a conference call with an administrative patent judge should be prepared to advise the administrator, paralegal or legal technician why a conference call is believed to be needed. The party may be required to file an agenda outlining the topics to be discussed.

4. New caption

The appendix gives the caption to be used in filing subsequent papers in this interference.


RICHARD TORCZON
Administrative Patent Judge

Attachment
(37 CFR § 1.611(c))

The parties involved in this interference are:

Junior Party

Named inventors: Stephen A. Johnston, Dallas, Texas
John C. Sanford, Geneva, New York

Patent: 5,580,716, granted 3 December 1996
(08/344,616, filed 17 November 1994)

Title: Parasite-derived resistance

Assignee: Stephen A. Cornell Research Foundation
and Johnston
(licensees include the Scotts Company
and Feed My Sheep Foundation)

Accorded Benefit: 08/068,168, filed 28 May 1993

07/856,889, filed 25 March 1992
(now 5,240,841, granted 31 August 1993)

07/449,049, filed 14 December 1989

06/842,484, filed 21 March 1986

Patent: 5,840,481, granted 24 November 1998
(08/758,561, filed 29 November 1996)

Title: Parasite-derived resistance

Assignee: Stephen A. Cornell Research Foundation
and Johnston
(licensees include the Scotts Company
and Feed My Sheep Foundation)

Accorded Benefit: 08/344,616, 17 November 1994

08/068,168, filed 28 May 1993

07/856,889, filed 25 March 1992
(now 5,240,841, granted 31 August 1993)

07/449,049, filed 14 December 1989

06/842,484, filed 21 March 1986

Patent: 09/299,426, filed 26 April 1999
(a reissue application of
5,840,481, granted 24 November 1998;
08/758,561, filed 29 November 1996)

Title: Parasite-derived resistance

Assignee: Stephen A. Cornell Research Foundation
and Johnston
(licensees include the Scotts Company
and Feed My Sheep Foundation)

Accorded Benefit: 08/344,616, 17 November 1994

08/068,168, filed 28 May 1993

07/856,889, filed 25 March 1992
(now 5,240,841, granted 31 August 1993)

07/449,049, filed 14 December 1989

06/842,484, filed 21 March 1986

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: Roger N. Beachy, Ladue, Missouri
Robert T. Fraley, St. Louis, Missouri
Stephen G. Rodgers, Chesterfield, Missouri

Application: 06/917,027, filed 9 October 1986

Title: Protection of plants against viral
infection

Assignee: The Monsanto Company and Washington
University

Attorneys: See last page

Accorded Benefit: 06/844,918, filed 27 March 1986
06/792,389, filed 29 October 1985

Address: See last page

Count

See Paper No. 56 at 2-3.

The claims of the parties are:

Johnston '716:	1-28
Johnston '481:	1-21
Johnston '426:	1-133
Beachy:	1-18, 20-32, 38, 39, 41, 42, and 46-51

The claims of the parties which correspond to the Count
are:

Johnston '716:	11 and 14
Johnston '481:	3 and 16
Johnston '426:	3, 16, 22-38, 60, 65, 71, 74, 79, 90, 95, 101, 104, 113, 119, 122, 127, 128, and 133
Beachy:	1-7, 9-18, 20-32, 38, 39, 41, 42, and 46-49

The claims of the parties which do not correspond to the
Count are:

Johnston '716:	1-10, 12, 13, and 15-28
Johnston '481:	1, 2, 4-15, and 17-21
Johnston '426:	1, 2, 4-15, 17-21, 39-59, 61-64, 66-70, 72, 73, 75-78, 80-89, 91- 94, 96-100, 102, 103, 105-112, 114-118, 120, 121, 123-126, and 129-133
Beachy:	8, 50, and 51

Interference No. 104,286
Johnston v. Beachy

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Page 7

Appendix

Paper No. _____

Filed on behalf of: Party _____
By: Name of lead counsel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Richard Torczon)

STEPHEN A. JOHNSTON and JOHN C. SANFORD,

Junior Party,
(Patent 5,580,716,
Patent 5,840,481, and
Reissue 09/299,426),

v.

ROGER N. BEACHY, ROBERT T. FRALEY,
and STEPHEN G. ROGERS,

Senior Party
(Application 06/917,027).

Patent Interference No. 104,286

TITLE OF PAPER

Interference No. 104,286
Johnston v. Beachy

Paper No. 61
Page 8

cc (via First Class Mail):

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